




U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J.

Dated: August 21, 2024

BY ECF

The Honorable Vernon S. Broderick
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Riverkeeper, Inc. v. Regan*, No. 17 Civ. 4916 (VSB)

Dear Judge Broderick:

On behalf of defendants U.S. Environmental Protection Agency (“EPA”) and Michael Regan, in his official capacity as Administrator of the EPA (jointly, “defendants”) and with the consent of all parties, I write to provide the Court a status update as provided in the Court’s endorsed order dated August 5, 2024 [ECF No. 206].

Since the parties’ August 5, 2024 letter to the Court [ECF No. 205], the parties have continued their discussions regarding EPA’s and NYSDEC’s responses to the proposals in Plaintiffs’ June 20, 2024 letter. As of the writing of this letter, the parties have reached an understanding regarding defendant New York State Department of Environmental Conservation’s (“NYSDEC”) timeline for its contemplated rulemakings to reclassify specific saline waters at issue in this litigation into different classes governed by amended water quality standard regulations. Barring unforeseen circumstances, such as litigation or other concerns raised in the rulemaking process, it is DEC’s goal to: (1) file a second Notice of Proposed Rulemaking with the New York State Department of State by March 31, 2025; and (2) file a Notice of Adoption of the final second rule with the New York State Department of State by September 30, 2025. In addition, EPA plans to review, before March 2025, NYSDEC’s first rulemaking which became effective for purposes of state law on October 18, 2023, as described in the parties’ September 26, 2023, and March 6, 2024 status reports to the Court [ECF Nos. 197, 199].

To allow NYSDEC time to work on its second Notice of Proposed Rulemaking, defendants respectfully request that the Court continue to hold in abeyance any action on the parties’ pending cross-motions for summary judgment and NYSDEC’s motion to amend its answer to assert a cross-claim against EPA [ECF Nos. 128, 150, 145, 154, 173] for 8 months, until **April 30, 2025**. Defendants further propose that the parties submit a joint status letter to the Court on or before **April 25, 2025**. In light of this request, the parties have agreed that any party may file a letter with this Court to terminate the abeyance period prior to April 25, 2025, but must first notify the remaining parties at least two weeks prior to filing its letter and engage in a meet and confer as soon as reasonably practicable. This is the defendants’ ninth request on consent for the Court to

Hon. Vernon S. Broderick
August 15, 2024

Page 2 of 2

hold these motions in abeyance. Plaintiffs and intervenor-defendants NYSDEC and the City of New York consent to this request.

We thank the Court for its consideration of this request.

Respectfully,

DAMIAN WILLIAMS
United States Attorney

/s/ Tomoko Onozawa

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cc (via ECF): All counsel of record